

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NORTH CAROLINA
SOUTHERN DIVISION

No. 7:07-CR-36-1-F

UNITED STATES OF AMERICA

v.

DARIUS LAMONT GALLOWAY,
Defendant.

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ORDER

This matter is before the court on motion by the defendant, Daruis Lamont Galloway [DE-159] for production of the court reporter's original audio tapes of the jury instructions in his trial for his use on appeal. Galloway contends the "transcribed record is inconsistent with the 'audio version,' and [that it] is necessary to present [the audio tapes] to the Court of Appeals in support of his claim(s) on appeal." Motion [DE-159] at 1-2. He argues that he enjoys a common law right to receive the original audio recording of the jury instructions.

Galloway has failed to specify in what manner the transcription of the jury instruction varies from the contents of the audio tape. Absent such specific information, the undersigned cannot make a determination whether the circumstances are sufficiently unusual to require production of the original audio tape on appeal. The undersigned has listened to the audio tape and has identified no *material* discrepancies. Nevertheless, the appellate court may direct supplementation of the record if it deems necessary.

Accordingly, Galloway's Motion to Enforce Common Law Right to Access to Federal Judicial Records [DE-159] is DENIED without prejudice to renew upon specific allegations identifying material discrepancies or omissions that affect his claim(s) on appeal.

SO ORDERED.

This, the 29th day of August, 2011.



JAMES C. FOX
Senior United States District Judge